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Ministry of Public Safety and Solicitor General
Liquor Control and Licensing Branch

Role of Local Government and First Nations in the Provincial Liquor Licensing Process

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Introduction

Why a guide?

The general manager of the provincial Liquor Control and Licensing Branch (LCLB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and Regulation. Local government and First Nations play an important role that is essential to the liquor licensing process.

The goal of this guide is to provide a better understanding of the liquor licensing process, as it involves local government and First Nations. This guide describes the most common types of licence applications (both new applications and applications for changes to licences) and the role of the local government or First Nation that has jurisdiction over the proposed site for each type of application.

The role of local government and First Nations changed substantially as a result of the revised Liquor Control and Licensing Regulation that came into effect on December 2, 2002. The LCLB, rather than the applicant, now notifies local government and First Nations of new licence applications. Local government and First Nations have the opportunity to provide comments and recommendations to the LCLB on all liquor-primary licence applications.

What are local government and First Nations?

The *Liquor Control and Licensing Act* defines local government as any of the following:

- the board of a regional district;
- the council of a municipality; or,
- the local trust committee or executive committee acting as local trust committee for a local trust area under the Islands Trust Act.

First Nation means either of the following:

- the band council of a reserve; or,
- any prescribed aboriginal governing body.

Why is more than one level of government involved?

Local and provincial governments share an interest in ensuring that liquor regulations are followed and that every liquor licensee enjoys the support of its community. Local government and First Nations are responsible for protecting the peace and good order of their communities and are often the first to receive complaints about a licensed establishment. The provincial government is responsible for establishing and maintaining a province wide liquor control policy that addresses issues from a provincial perspective.

Many liquor licence applicants have trouble distinguishing between approvals they must get from local government and First Nations and the input that the provincial liquor licensing process requires from local government and First Nations.

This guide focuses on the input the LCLB requires from local government and First Nations. However, applicants must realize that LCLB approval of a liquor licence is just one part of what they need to do business in their community. Applicants should contact their local government or First Nation early in the liquor licence application process to determine:

- what other approvals they need to construct and open their establishment for business; and,
- what information is needed to get those approvals.

What approvals might local government and First Nations require?

An individual who wishes to operate a business in a community will have to satisfy local government or First Nation requirements in areas such as:

- zoning;
- parking;
- noise bylaws;
- building permits and bylaws;
- business licensing;
- health and food safety; and,
- fire safety.

Liquor-primary licence applications

What types of establishments are eligible for a liquor-primary licence?

A liquor-primary licence may be issued to an establishment that is primarily in the hospitality, entertainment, or beverage service business. This may include establishments commonly known as bars, lounges, pubs, and cabarets, as well as convention centres, stadiums, concert halls and recreation centres, airports, trains and motor vessels. Private clubs are a sub-category within the liquor-primary class of licence and follow the same application process as other liquor-primary licences.

The regulation prohibits restaurants, take-away services, and youth-focused businesses, such as video arcades and movie theatres, from holding a liquor-primary licence.

What is the process for issuing a liquor-primary licence?

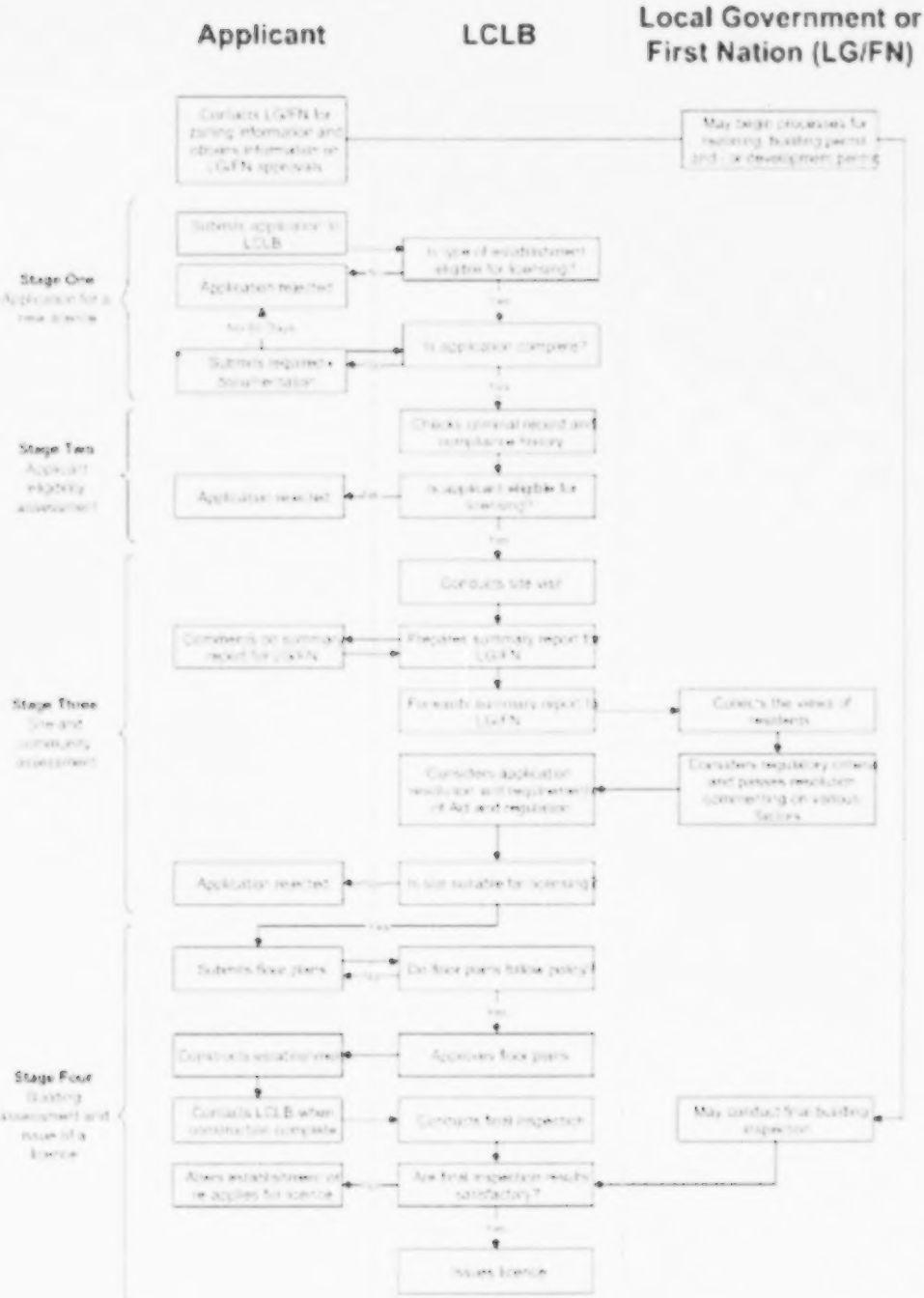
The process for issuing a liquor-primary licence involves four stages. The flowchart on the following page shows a typical application process. Steps may be added or omitted in certain situations, for example, where a local government or First Nation decides to opt out of the process.

Stage One: Application for a new licence

The applicant submits an application to LCLB headquarters in Victoria. The LCLB assesses whether the proposed establishment meets the definition of a liquor-primary establishment. The LCLB checks that the application is complete. A complete application must include all of the following:

- completed application form and fee;
- proof of valid interest in the proposed site;
- corporate structure and shareholder documents;
- Personal History and Criminal Record Search consent form;
- letter of intent describing the proposal;
- local government or First Nation documents indicating the zoning classification and permitted uses of the proposed site (such as a copy of the zoning bylaw);
- preliminary concept drawings of the overall establishment; and,
- a large official scaled and dated map of the municipality, regional district or First Nation reserve showing appropriate boundaries.

The LCLB may require additional information, depending on the proposed type of establishment.


Applicant
LCLB
Local Government or First Nation (LG/FN)
Stage One
Stage Two
Stage Three
Stage Four

Where the local zoning bylaw indicates that the proposed establishment is not a permitted use on the site, the applicant should provide information to the LCLB indicating that they are applying either to rezone the property or for a development permit that would allow the use. The LCLB does not require final confirmation from the local government or First Nation that the establishment is a permitted use until the fourth stage of the process.

At this stage, the applicant should contact their local government or First Nation to determine any local requirements for business licensing or building or development permits. These processes may happen at the same time as the liquor licensing process. Applicants should also confirm local government or First Nation policies and procedures for assessing liquor-primary licence applications. Some local government and First Nations may require detailed floor plans when they assess the community impact of the application.

Stage Two: Applicant eligibility assessment

The LCLB assesses whether the proposed establishment meets the definition of a liquor-primary establishment.

The LCLB assesses whether the applicant is eligible to hold a liquor licence. This includes an assessment of whether the applicant:

- meets age and residency requirements;
- has a valid interest in the proposed site;
- is "fit and proper"; and/or,
- has an association with a liquor manufacturer, agent, UBrew or Uvin that would prevent the LCLB from issuing a licence.

The LCLB also conducts a criminal record check and reviews the applicant's compliance history if they have held other liquor licences.

Stage Three: Site and community assessment

LCLB headquarters asks the local liquor inspector to verify the information on location and surrounding establishments provided by the applicant. The inspector conducts a site visit and takes photos of the proposed site.

The LCLB prepares a summary report and forwards it to the applicant for comment. The LCLB notes any comments from the applicant and forwards the summary report to the appropriate local government or First Nation.

The applicant pays the local government or First Nation any cost-recovery fees they have set to assess applications. The local government or First Nation may also ask the applicant to provide detailed floor plans in order to assess the community impacts of the application.

The local government or First Nation collects the views of residents. The process for collecting the views of residents is described later in the section "How are the views of residents obtained?".

The local government or First Nation reviews the regulatory criteria and provides a resolution to the LCLB recommending whether the licence should be issued. A list of the criteria that local government and First Nations must consider and comment on in the resolution is provided later in the section "What criteria must a local government or First Nation consider and comment on in its resolution?".

The LCLB reviews the resolution to make sure it is consistent with the regulation and is not contrary to the public interest. If the local government or First Nation does not provide a resolution, the LCLB reviews the regulatory criteria and gathers the views of residents.

The LCLB considers the entire application, including any resolution received from the local government or First Nation, and decides whether issuing a licence would be contrary to the public interest.

Stage Four: Building assessment and issue of a licence

The LCLB reviews current floor plans submitted by the applicant and determines whether they follow LCLB policy.

In jurisdictions where the local government or First Nation provides preliminary approvals, the plans must be stamped with fire or building authority approvals and the occupant load indicated on the plans must be equal to, or less than, the requested person capacity of the licence.

Further information on the relationship between person capacity and occupant load can be found in the section entitled "Other topics of interest". If the occupant load indicated on the plans is greater than the requested person capacity, the applicant must alter the plans or re-submit the application and request a greater person capacity. Once the LCLB approves the floor plans, and the applicant meets all local government or First Nation building permit requirements, the applicant may proceed with construction.

An LCLB inspector conducts a final inspection to ensure that the establishment has been built as shown in the approved floor plans. A local government or First Nation may also conduct a final building inspection at this time. The local building inspector notifies the LCLB if the results of the final building inspection indicate an occupant load different from that stamped on the approved floor plans. If the final occupant load is greater than the person capacity requested in the letter of intent describing the proposal, the applicant must alter the building construction or re-submit the application and request a greater person capacity. A re-submitted application follows the same approval process as a new licence application, including consideration by the local government or First Nation.

If the results of the LCLB final inspection, and any final inspections conducted by the local government or First Nation, are satisfactory, the LCLB grants a liquor-primary licence.

When do local government and First Nations become involved?

Local government and First Nations become involved in the liquor licensing process in stage three. The *Liquor Control and Licensing Act* says that applicants must not try to get the views of their local government or First Nation about their liquor licence application before the LCLB provides the local government or First Nation with notice. This does not prevent applicants from contacting their local government or First Nation in stage one to get information on zoning or to begin the process of obtaining any other local approvals.

What criteria must a local government or First Nation consider and comment on in its resolution?

A local government or First Nation must consider and comment on:

- the location of the establishment;
- the proximity of the establishment to other social or recreational facilities and public buildings;
- the person capacity and hours of liquor service;
- the number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location;
- traffic, noise, parking and zoning;
- population, population density and population trends;
- relevant socio-economic information; and,
- the impact on the community.

Sample comments for each of these criteria are provided at the end of this booklet.

What does the LCLB provide to local government and First Nations?

The LCLB provides the local government or First Nation with a summary report on the regulatory criteria outlined above. The LCLB prepares the report based on information provided by the applicant and confirmed by the inspector during the site visit. The LCLB also provides:

- population information based on the most recent census data available through Statistics Canada;
- socio-economic data, where available, that indicates the community's dependency on the social safety net; and,
- information on contraventions of the *Liquor Control and Licensing Act* and Regulation committed by licensed establishments in the area surrounding the proposed establishment.

Local government and First Nations may refer to any other demographic or socio-economic information for their community when commenting on the regulatory criteria.

How are the views of residents obtained?

Local government and First Nations must gather the views of residents whenever issuing a liquor-primary licence may affect them. Residents include businesses. Remote resorts or other licensed establishments in rural areas may be sufficiently removed from residents that it is not necessary to gather their views.

The local government or First Nation determines the appropriate area to be included and the method for gathering those views. A local government or First Nation can recover from applicants the cost of any process used to gather the views of residents.

The local government or First Nation may use one or more of the following methods:

- receiving written comments in response to a public notice posted at the site and in local newspapers;
- conducting a public hearing;
- holding a referendum; or,
- any other similar method.

The more controversial the application, the greater the need for a precise method for gathering views, such as a referendum.

Local government and First Nations should make sure that the method they choose meets the following criteria:

- it is fair and equitable to both the residents and the applicant;
- it provides all nearby residents with reasonable notice and opportunity to comment;
- it avoids any perception of bias; and,
- it is appropriate to local circumstances.

To avoid the perception of bias, it is very important that neither the applicant, nor a group opposed to the application, be involved in the collection of residents' views.

To help residents form their opinion, the local government or First Nation must provide the following information:

- the type of licence application;
- the proposed person capacity; and,
- the proposed hours of liquor service.

A local government or First Nation may gather the views of residents during a public hearing to consider a re-zoning application for the proposed site. This would enable a single process to serve two purposes.

A local government or First Nation may decide whether to gather the views of residents, the area that will be covered and the method of gathering their views. However, the general manager may override any decision that is contrary to the public interest. This includes the decision whether or not to gather the views of residents, as well as decisions regarding the method used and the area canvassed. The general manager must be satisfied that residents have had an opportunity to express their views if they may be affected. The general manager may find that, although the population in the near vicinity is sparse, the nature of the establishment requires gathering the views of residents.

The local government or First Nation decides what weight to give to the views that are obtained. For example, a local government or First Nation may give different weight to the opinions of local businesses than it gives to the views of local residents.

When examining the views of residents, local government and First Nations must be careful not to consider irrelevant factors such as concerns from existing licensees about potential negative impacts on their businesses. The courts have concluded these are not relevant considerations, as neither the Act nor regulation sets out a need to consider the economic impact of an application on existing licensees.

How does a local government or First Nation provide its recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
    - how the views of residents were gathered;
    - the views of residents; and,
    - its comments and recommendations with respect to the views of residents;
- provides its recommendation whether the licence should be issued; and,
- gives the reasons for its recommendation.

A sample resolution template for a liquor-primary licence application is included at the end of this booklet.

What will the LCLB do if a resolution does not meet the requirements of the Act or regulation?

If the resolution fails to address one or more of the regulatory criteria, the general manager may request that the local government or First Nation provide another resolution that addresses the outstanding criteria.

If the local government or First Nation is unable to provide a resolution that addresses all of the criteria, or if the resolution appears to be contrary to the public interest, the general manager must allow residents to comment on the licence application. The general manager will generally collect comments using a referendum.

If comments are collected by referendum, the general manager must refuse to issue the licence if less than 60 per cent of the residents who vote are in favour of issuing the licence. In any other case, the general manager must refuse to issue the licence if a majority of residents do not favour issuing the licence.

If the residents are in favour, the general manager will consider the regulatory criteria before deciding whether to issue the licence.

What is the time frame for providing a resolution?

A local government or First Nation must provide a resolution to the LCLB within 90 days of receiving the summary report. If a local government or First Nation wishes to extend the time for response, it must provide a written request to the general manager, before the end of the 90 days, indicating the extension requested and the reasons for the request. Local government or First Nation staff may prepare the request.

If an extension is granted, the general manager will provide written authorization to the local government or First Nation. If an extension is not granted, or if the local government or First Nation does not request an extension, the general manager will consider the regulatory criteria and determine whether or not to issue the licence, without local government or First Nation comment.

Can a local government or First Nation decide not to comment?

A local government or First Nation may decide not to comment on liquor-primary licence applications. It can inform the LCLB of its decision in the following two ways.

A local government or First Nation may provide a resolution to the LCLB indicating that it does not wish to receive notice of, or provide comment on, *any* liquor-primary licence applications within its jurisdiction or within a specific geographic area. A sample resolution template is included at the end of this booklet.

A local government or First Nation may also opt out of commenting on an individual application. In this case, after receiving the summary report, the local government or First Nation must provide a resolution to the LCLB indicating that it does not wish to provide comment on that particular application. A sample resolution template is included at the end of this booklet. The local government or First Nation will continue to receive notice of other liquor-primary licence applications and may comment, or not, as it chooses.

What will the LCLB do if the local government or First Nation does not provide a resolution?

If the LCLB does not receive a resolution, before deciding whether to issue the licence, the general manager will:

- gather the views of residents if issuing a licence may affect them; and,
- consider the regulatory criteria.

The general manager may gather the views of residents using any of the methods available to local government and First Nations outlined earlier in the section "How are the views of residents obtained?".

Can a local government or First Nation consider more than one application at a time?

Yes, a local government or First Nation may consider more than one liquor-primary licence application within its jurisdiction at the same time. The LCLB will provide notice of applications to local government and First Nations even if earlier applications are still in progress. Where a local government or First Nation is considering more than one application for an area, it must manage the collection of the views of residents to avoid confusion and allow residents the chance to comment on all applications that may affect them.

Local government and First Nations may decide the order in which they will review applications. They do not have to review applications in date order. However, where a local government or First Nation has provided a resolution to the LCLB in favour of an application, it cannot rescind that resolution in order to support a later application.

Food-primary licence applications

What types of establishments are eligible for a food-primary licence?

A food-primary licence may be issued to a restaurant if the primary purpose of its business is the service of food during all hours of operation.

Food-primary licensees that have a minimum capacity of at least 50 may apply for an endorsement to their licence that allows them to operate a small area of the restaurant as a lounge where liquor may be served without food. Minors are allowed in a restaurant lounge if accompanied by an adult. The maximum size of the lounge is the smaller of 40 persons or 20 per cent of the interior dining area's capacity.

Licensees may apply to have two lounges if:

- one of the lounges is located on an outdoor patio; and,
- each of the lounges has a capacity no greater than the limit for a restaurant lounge (40 persons or 20 per cent).

Both lounges may be in use at the same time as long as the combined total number of persons in both lounges never exceeds the maximum person capacity (i.e., 40 persons or 20 percent). If a restaurant with two lounges exceeds the maximum person capacity, the LCLB will require the restaurant to close one of the lounges.

What is the process for issuing a food-primary licence?

The process for issuing a food-primary licence includes the same steps outlined in the section entitled "Liquor-primary licence applications," with the following differences:

- the LCLB does not conduct a site visit;
- the general manager does not consider a resolution from a local government or First Nation; and,
- the general manager determines whether issuing a licence is contrary to the public interest by considering the primary purpose of the proposed establishment.

When do local government and First Nations become involved?

Local building or fire authorities must review and approve floor plans and determine occupant loads for licensed areas.

The LCLB requests a resolution from a local government or First Nation when a food-primary licensee applies for patron participation entertainment (such as dine and dance or karaoke) or hours of liquor service past midnight. Further information on these circumstances can be found in the section entitled "Applications to amend a licence".

Winery licence endorsement applications

What is a winery liquor licence?

A winery liquor licence allows the licensee to manufacture and store wine and provide samples of products to the public in a designated sampling area at the winery site.

What is the process for issuing a winery licence?

The process for issuing a winery licence is similar to the process for food-primary licences outlined in the section entitled "Food-primary licence applications". Local government and First Nations do not have an opportunity for comment or recommendations on winery licence applications.

What are winery licence endorsements?

To allow consumption of wine by the bottle or glass at the winery, wineries may apply for two types of endorsements:

- a **picnicking endorsement** allows the consumption of wine in a designated outdoor area on the winery site; and,
- a **winery lounge endorsement** allows the consumption of wine in an indoor area and/or a patio on the winery site.

What is the process for issuing a winery licence endorsement?

The process for issuing a winery lounge endorsement or picnicking endorsement is the same as the process for issuing a liquor-primary licence, as outlined in the section entitled "Liquor-primary licence applications". Local government and First Nations become involved in stage three of the process by providing a resolution to the LCLB commenting on the application.

What criteria must a local government or First Nation consider?

A local government or First Nation must consider:

- the location of the winery lounge or picnicking area;
- how close the winery lounge or picnicking area is to other social or recreational facilities and public buildings;
- the person capacity of the proposed winery lounge;
- hours of liquor service;
- traffic, noise, parking and zoning; and,
- the impact of the winery lounge or picnicking area on the community.

What information *does the LCLB* provide to local government and First Nations?

The LCLB provides local government and First Nations with a *summary report on the endorsement application.* The summary report includes information on each of the regulatory criteria outlined in the preceding section "What criteria must a local government or First Nation consider?".

How are the views of residents obtained?

If a local government or First Nation considers that issuing an endorsement may affect nearby residents, the local government or First Nation must gather the views of residents. Information on the process and requirements for gathering the views of residents is provided in the section entitled "Liquor-primary licence applications".

How does a local government or First Nation provide its recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
    - how the views of residents were gathered;
    - the views of residents; and,
    - its comments and recommendations with respect to the views of residents;
- provides its recommendation whether the endorsement should be issued; and,
- gives reasons for its recommendation.

A sample resolution template is included at the end of this booklet.

What is the time frame for providing a resolution?

A local government or First Nation must provide a resolution to the LCLB within 90 days after receiving the summary report. Information on requesting an extension to the 90 day response period is provided in the section entitled "Liquor-primary licence applications".

Can a local government or First Nation decide not to comment?

Yes, local government and First Nations may decide not to comment on winery licence endorsement applications. The section entitled "Liquor-primary licence applications" contains information on how to opt out of comment.

Applications to amend a licence

When will the LCLB provide local government and First Nations with notice of amendment applications?

Licensees may apply for a variety of licence changes. The regulation outlines a number of situations where the LCLB must provide local government and First Nations with notice of an application to amend a licence. These include the following:

Liquor-Primary, Liquor-Primary Club, & Winery Licences

- an extension of hours of liquor service (either earlier or later);
- an increase in the person capacity (except a one-time increase up to the occupant load where an applicant held, or had preliminary site and applicant approval for, a licence on December 2, 2002 and the size of the establishment is not being increased);
- the addition of a patio.

Food-Primary Licences

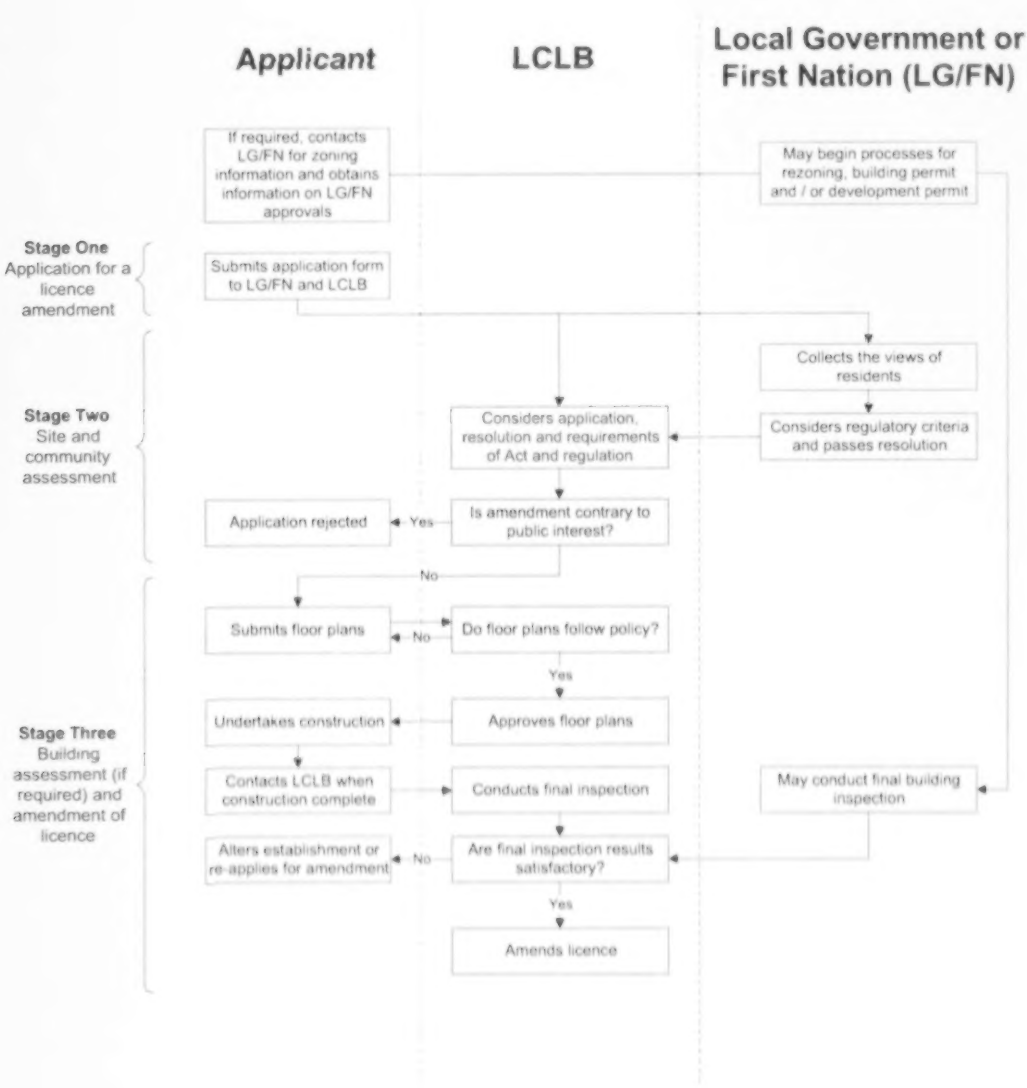
- an extension of hours of liquor service past 12:00 a.m.;
- patron participation entertainment.

In these situations, the LCLB provides notice to local government and First Nations for licence amendment (change) applications.

Other licence changes are processed by the LCLB without an opportunity for local government or First Nation comment, for example, a transfer of shares or a name change.

What is the process for these types of amendments?

Licence amendments follow a process that includes either two or three of the four stages outlined in the section entitled "Liquor-primary licence applications". The second stage (applicant eligibility assessment) is eliminated, as applicants are already licensees. A process flowchart is included on the next page, followed by a description of the licence amendment process.


Applicant
LCLB
Local Government or First Nation (LG/FN)
If required, contacts LG/FN for zoning information and obtains information on LG/FN approvals
May begin processes for rezoning, building permit and / or development permit
Stage One
Application for a licence amendment
Submits application form to LG/FN and LCLB
Collects the views of residents
Stage Two
Site and community assessment
Considers application, resolution and requirements of Act and regulation
Considers regulatory criteria and passes resolution
Application rejected
Yes
Is amendment contrary to public interest?
No
Submits floor plans
No
Do floor plans follow policy?
Yes
Stage Three
Building assessment (if required) and amendment of licence
Undertakes construction
Approves floor plans
Contacts LCLB when construction complete
Conducts final inspection
May conduct final building inspection
Alters establishment or re-applies for amendment
No
Are final inspection results satisfactory?
Yes
Amends licence

Stage One: Application for a licence amendment

The applicant completes an application to change their licence. The appropriate local government or First Nation date stamps the application form to indicate the date it was received. The applicant provides the local government or First Nation with a copy of the application which serves as notice from the LCLB of an amendment to a licence within their community. The applicant submits the original application to the LCLB. The application form indicates what information the applicant needs to provide to address the regulatory criteria.

Stage Two: Site and community assessment

The local government or First Nation:

- gathers the views of residents if the amendment may affect them;
- considers the regulatory criteria; and,
- provides a resolution to the LCLB.

Further information on each of these steps is provided later in this section.

If the local government or First Nation does not provide a resolution, the general manager will consider the regulatory criteria and gather the views of residents if the amendment may affect them.

The LCLB considers the entire application, including any resolution received from the local government or First Nation, and decides whether granting the amendment would be contrary to the public interest.

Stage Three: Building assessment (if required) and amendment of licence

For amendments to hours of liquor service, or to allow patron participation entertainment, the LCLB simply amends and issues the new licence at this stage.

If the application involves the addition of a patio or an increase in person capacity due to a structural alteration, the LCLB conducts a building assessment that is identical to the assessment that occurs with a new licence application.

What criteria must a local government or First Nation consider?

The local government or First Nation must consider:

- the potential for noise; and,
- the impact on the community.

When the application is for liquor service past 12:00 a.m. or for patron participation entertainment in a restaurant, the local government or First Nation must also take into account whether the amendment may result in the restaurant operating improperly as a liquor-primary establishment.

How are the views of residents obtained?

If a local government or First Nation considers that the amendment may affect nearby residents, the local government or First Nation must gather the views of residents. The process and requirements for gathering the views of residents is outlined in the section entitled "Liquor-primary licence applications".

How does a local government or First Nation provide their recommendation to the LCLB?

A local government or First Nation must provide a resolution to the general manager that:

- comments on the regulatory criteria;
- indicates whether or not the views of residents were gathered;
- if the views of residents were gathered, explains:
    - the views of the residents;
    - the method used to gather the views of the residents; and,
    - its comments and recommendations with respect to the views of residents;
- provides its recommendation as to whether the amendment should be approved; and,
- gives the reasons for its recommendation.

A sample resolution template is included at the end of this booklet.

Where a local government or First Nation wishes to support a licence amendment for a trial period only, such as extended hours of liquor service, it may provide a resolution supporting a temporary change to the licence for a period of up to one year, rather than a permanent change. The general manager will consider the recommendation and may grant the amendment on a temporary basis. If the establishment operates for the designated time period without incident, the general manager will consider an application for a permanent approval of the change.

What is the time frame for providing a resolution?

The local government or First Nation must provide a resolution to the LCLB within 90 days after receiving an application form. Information on requesting an extension to the 90 day response period is provided in the section entitled "Liquor-primary licence applications".

Can a local government or First Nation decide not to comment?

Local government and First Nations may decide not to provide comments or recommendations on licence amendment applications. To opt out of commenting, a local government or First Nation must pass a resolution indicating that it does not wish to provide comment on the application.

Special occasion licence applications

What is a special occasion licence?

Special occasion licences allow the sale of liquor at special occasions. Regularly scheduled events are not generally eligible for special occasion licences. Special occasion licences are not for the prime purpose of making a profit, unless the purpose of the event is to raise funds for a genuine charitable purpose.

What is the process for issuing special occasion licences?

Application for a special occasion licence can be made at any approved liquor store. The store manager reviews the application and issues the licence if the application follows LCLB policy and the necessary approvals have been obtained. The general manager may approve or reject an application in special circumstances.

When do local government and First Nations become involved?

All public special occasions require the approval of both the responsible local government or First Nation and the local police authority. Public special occasions are:

- community or public celebrations; or,
- tasting events held to acquaint the public with products of a licensed liquor manufacturer.

Some local government have formed a Committee to Approve Public Events (CAPE) that grants approval in principle to public special occasion licences within its jurisdiction and includes representatives from local government and local police.

Other topics of interest

Person capacity and occupant load

The person capacity of all new licensed establishments must be equal to the occupant load of the establishment. Occupant load is defined in the regulation as the least number of persons allowed in an establishment under:

- the Provincial building regulations;
- the *Fire Services Act* and British Columbia Fire Code Regulation; and,
- any other safety requirements of the local government or First Nation for the area in which the establishment is located.

Local government and First Nations must determine which of their requirements are "safety" related, for example, parking bylaws.

Local building or fire officials determine the occupant load for each licensed establishment. To assist with this determination, local officials may refer to the document entitled "Occupant Loads in Licensed Beverage Establishments" prepared by the Office of the Fire Commissioner and the Building Policy Branch. In areas where there is no representative of the Office of the Fire Commissioner, the applicant must obtain the services of a designated professional to determine the occupant load.

Conditional approval or support

In some circumstances, a local government or First Nation may wish to have certain terms and conditions placed on a liquor licence in exchange for its approval and support.

Although the applicant may agree with the terms and conditions, the LCLB may not have jurisdiction to impose them. For example, the general manager may consider conditions with respect to hours of liquor service or types of entertainment, but has no jurisdiction to impose terms and conditions relating to issues such as preserving heritage buildings or landscaping.

To make sure that the general manager can consider conditions, local government and First Nations should consult with the LCLB before making a resolution that is conditional.

Restrictions on entertainment

Under section 50 of the *Liquor Control and Licensing Act*, a municipality or regional district may, by bylaw, restrict or prohibit any or all of the types of entertainment that would otherwise be permitted under the regulation or the terms and conditions of a licence.

Imposition of cost-recovery fees

Local government and First Nations may use a bylaw or any other authorized method to impose fees on applicants in order to recover the costs of assessing applications for licences or licence amendments. This includes the cost of gathering the views of residents. These fees may be different for different classes or categories of licence applications and amendments and for the different methods used to assess applications.

Rural agency stores

The provincial Liquor Distribution Branch administers the rural agency store program. Information on the program, including criteria for community eligibility and support, can be obtained by contacting the Liquor Distribution Branch at 1-866-888-3324.

Sample resolution template for a liquor-primary or liquor-primary club licence application

General Manager,
Liquor Control and Licensing Branch

RE: Application for a liquor-primary licence at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named liquor licence:

"Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the licence for the following reasons: (detail and explain reasons for recommendation)

2. The (council's/board's) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion – a comment on each must be included in the resolution. It is not sufficient to reference a staff report.)

(a) The location of the establishment (provide comments)
(b) The proximity of the establishment to other social or recreational facilities and public buildings (provide comments)
(c) The person capacity and hours of liquor service of the establishment (provide comments)
(d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location (provide comments)
(e) Traffic, noise, parking and zoning (provide comments)
(f) Population, population density and population trends (provide comments)
(g) Relevant socio-economic information (provide comments)
(h) The impact on the community if the application is approved (provide comments)

3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2(a) through (h) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

Sample resolution comments for a liquor-primary licence application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these 'pros and cons'.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the establishment:

The location is in a commercial area that is removed from nearby residences and is suitable for a late night entertainment venue where some street noise at closing time can be anticipated.

(b) The proximity of the establishment to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a late night entertainment venue.

– or -

The proposed location is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed establishment is not considered compatible with the existing facilities.

(c) The person capacity and hours of liquor service of the establishment

The maximum person capacity of 250 with closing hours of 2:00 a.m. Tuesday through Saturday and midnight on Sunday is acceptable. A larger capacity or later hours is not supported given the few number of police on duty at that time.

(d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location:

The existing establishments are large public house establishments that focus on exotic entertainment or are nightclubs that attract patrons 19 to 25 years of age. The proposed establishment is a small local pub style facility with an extensive menu and is designed to appeal to couples wanting a quiet adult venue for socializing in their community. There are no other (or few other) facilities with a similar focus.

(e) Traffic, noise, parking and zoning:

The establishment is not expected to negatively affect traffic patterns and noise is not expected to be an issue because [of the small size and early hours] – **or** – [the applicant has agreed to various noise baffling strategies to ensure the neighbours are not disturbed by late night music]. The applicant has met the requirements of the zoning bylaw with regard to road access and parking. Council has passed a bylaw rezoning the property and a Development Permit permitting the use.

(f) Population, population density and population trends:

The population for the community at 25,000 and 15,000 within a mile of the establishment with a growth rate of 3% supports the growth in the number of licensed establishments.

(g) Relevant socio-economic information:

The contravention rates for surrounding establishments is less than the provincial average and does not indicate a problem with over-proliferation of licensed establishments in the community. The community has an unemployment and income assistance rate that is lower than the provincial average and a growing tourism industry based on expanding hunting and skiing lodges in the area and an increase in scheduled bus tours through the mountain passes.

(h) The impact on the community if the application is approved:

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

Sample resolution template for a winery licence endorsement application

General Manager,
Liquor Control and Licensing Branch

RE: Application for a (winery lounge endorsement/picnicking endorsement) to winery licence number: (winery licence number)

- or -

RE: Application for a (winery lounge endorsement/picnicking endorsement) to a winery licence at: (address of proposed establishment, if applicant not already in possession of a winery licence)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named endorsement:

"Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the endorsement for the following reasons: (detail and explain reasons for recommendation)

2. The (council's/board's) comments on the prescribed considerations are as follows: (the council or board may refer to the contents of any report attached to the resolution for further information with respect to any of the considerations)

(a) The location of the (winery lounge/picnicking area) (provide comments)
(b) The proximity of the (winery lounge/picnicking area) to other social or recreational facilities and public buildings (provide comments)
(c) The person capacity of the winery lounge (provide comments)
(d) Hours of liquor service of the (winery lounge/picnicking area) (provide comments)
(e) Traffic, noise, parking and zoning (provide comments)
(f) The impact on the community if the application is approved (provide comments)

3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2(a) through (f) and 3must be addressed in the resolution in order for the resolution to comply with section 18 of the Liquor Control and Licensing Regulation.
- A separate resolution must be provided for each endorsement application if the applicant is applying for both a winery lounge endorsement and a picnicking endorsement
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

Sample resolution template for a licence amendment application

General Manager,
Liquor Control and Licensing Branch

RE: Application for (addition of a patio/increase in person capacity/extension of hours of liquor service/patron participation entertainment) as an amendment to (liquor-primary/liquor-primary club/winery/food-primary) licence number: (licence number)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named amendment:

"Be it resolved that:

1. The (council/board) (recommends/does not recommend) the amendment of the licence for the following reasons: (detail and explain reasons for recommendation)

2. The (council's/board's) comments on the prescribed considerations are as follows: (the council or board may refer to the contents of any report attached to the resolution for further information with respect to any of the considerations)

(a) The potential for noise if the application is approved (provide comments)
(b) The impact on the community if the application is approved (provide comments)
(c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose (provide comments only if the application is from a food-primary licence for an extension of hours of service past midnight or the addition of patron participation entertainment)

3. The (council's/board's) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Note:

- All of the items outlined above in points 1 and 2(a) through (c) and 3must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation.
- A separate resolution must be provided for each type of amendment if the applicant is applying for more than one of the prescribed types of amendments
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

Sample resolution template for opting out of comment in advance of applications

General Manager,
Liquor Control and Licensing Branch

RE: Provision of notice by the Liquor Control and Licensing Branch with respect to (liquor-primary licence applications and/or liquor-primary club licence applications and/or winery licence endorsement applications)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the provision of notice of liquor licence applications by the Liquor Control and Licensing Branch:

"Be it resolved that:

1. The (council/board) does not wish to receive notice of (liquor-primary licence applications and/or winery licence endorsement applications) pursuant to (section 10 and/or section 18) of the Liquor Control and Licensing Regulation

2. This resolution is in effect until (date)

3. This resolution is in effect for the following geographic areas: (describe the areas for which the resolution is in effect).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

Sample resolution template for opting out of comment on an individual application

General Manager,
Liquor Control and Licensing Branch

RE: (describe type of application)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the above named application:

> "Be it resolved that the (council/board) does not wish to provide comments or recommendations to the Liquor Control and Licensing Branch with regard to the application for (describe type of application and applicant).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)
(name and title of official)
(local government/First Nation)

HELP IS AVAILABLE

If you have any concerns or questions, please write, telephone or email the Liquor Control and Licensing Branch at:

Mailing address:	PO Box 9292 Stn Prov Govt, Victoria, BC, V8W 9J8
Office address:	2nd Floor, 1019 Wharf St., Victoria, BC, V8W 2Y9
Email:	lclb.lclb@gems4.gov.bc.ca
Phone:	250 387 1254 in Victoria
Toll free:	1 866 209 2111

Our web site also contains a range of helpful information along with licensee guides, application forms and links to the Liquor Control and Licensing Act and Regulations:

Web site: www.pssg.gov.bc.ca/lclb